

November 2, 2017

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: CVS at 4701 Wilkens Avenue
Forest Conservation Variance Request
Tracking #01-17-2586

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on October 17, 2017. If granted, this variance would allow the removal of five specimen trees to redevelop an assemblage of small residential properties totaling 2.3 acres as a CVS pharmacy. Of the five specimens to be removed, two are in residential yard (a 31" DBH mulberry & 35" DBH silver maple) while the other three are in the forest onsite. All five specimen trees are native species in fair to good condition, except for one in the forest that is in poor condition. The entire one acre of forest onsite would be cleared for this development.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to redevelop a site as a pharmacy. Full application of the law to the entire property would result in unwarranted hardship to the applicant, given that the specimen trees are spread throughout the small site such that avoiding all of the trees would preclude any reasonable redevelopment of the site. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general

conditions of the neighborhood. Rather than general conditions in the neighborhood, the petitioner's plight is due to unique circumstances associated with the number and location of the specimen trees onsite. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The site is currently in decline in a neighborhood of high density residential and commercial uses, such as the proposed use. Moreover, the use is consistent with the zoning of the property. Therefore, we find that granting the requested variance will not alter the essential character of the neighborhood, thus this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that no wetlands or streams would be impacted by the proposed redevelopment. Moreover, this development is subject to current Storm Water Management Law. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions on the property necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS or his designee find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of five specimen trees would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to water quality would result from the proposed development activities. Therefore, this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. The removal of the two specimen trees outside of forest shall be mitigated by payment of a \$1,930 fee in lieu prior to approval of any Baltimore County permit for this property.
2. All required reforestation shall be addressed prior to EPS approval of any permit.

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3. A note must be added to all plans stating: “A special variance to the Forest Conservation Law was granted by Baltimore County EPS on November 2, 2017 to allow the removal of five specimen trees from the site. Conditions were placed on this approval including payment of a fee in lieu of mitigation, to ensure the objectives of the Forest Conservation Law were met.”
4. A final forest conservation plan (FCP) reflecting this variance and addressing EPS staff comments on the preliminary FCP shall be submitted to EPS staff and approved prior to development plan approval.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request. This variance approval does not exempt future development activities at this property from complying with Baltimore County’s Forest Conservation Law.

Please have the party responsible for meeting these variance conditions sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

David V. Lykens
Deputy Director

c. Ms. Marian Honeczy, Maryland Dept. of Natural Resources

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I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Contract Purchaser's Signature

Date

Contract Purchaser's Printed Name